Exhibit A

Summary of the outstanding balance owed to KMC as of October 1, 2001.

BELL ATLANTIC -VIRGINIA

				A	B	C	D	E	A-B+C+D+E	Breakdown of Total Usage Charges (Col. E)			
IXC	FG	Title	Bill Date	Beginning Balance	Payments	Adjustments	Late Payment Charges	Total Usage Charges	Ending Balance	Interstate	Intrastate	Local	Total Billed Current Usage
R040	D	Bell Atlantic	01-Jul-99	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
R040	D	Bell Atlantic	01-Aug-99	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
R040	D	Bell Atlantic	01-Sep-99	$0.00	$0.00	$0.00	$0.00	$18,405.04	$18,405.04	$0.00	$0.00	$18,405.04	$18,405.04
R040	D	Bell Atlantic	01-Oct-99	$18,405.04	$0.00	$0.00	$0.00	$14,870.91	$33,275.95	$0.00	$0.00	$14,870.91	$14,870.91
R040	D	Bell Atlantic	01-Nov-99	$33,275.95	$0.00	$0.00	$281.40	$15,984.24	$49,541.59	$0.00	$0.00	$15,984.24	$15,984.24
R040	D	Bell Atlantic	01-Dec-99	$49,541.59	$0.00	$0.00	$492.35	$25,963.94	$75,997.88	$0.00	$0.00	$25,963.94	$25,963.94
R040	D	Bell Atlantic	01-Jan-00	$75,997.88	$0.00	$0.00	$757.45	$28,071.85	$104,827.18	$0.00	$0.00	$28,071.85	$28,071.85
R040	D	Bell Atlantic	01-Feb-00	$104,827.18	$0.00	$0.00	$1,161.95	$33,968.31	$139,957.44	$0.00	$0.00	$33,968.31	$33,968.31
R040	D	Bell Atlantic	01-Mar-00	$139,957.44	$0.00	$0.00	$1,499.32	$46,309.21	$187,765.97	$0.00	$0.00	$46,309.21	$46,309.21
R040	D	Bell Atlantic	01-Apr-00	$187,765.97	$0.00	$0.00	$2,139.84	$29,498.60	$219,404.41	$0.00	$0.00	$29,498.60	$29,498.60
R040	D	Bell Atlantic	01-May-00	$219,404.41	$0.00	$0.00	$2,778.20	$38,242.18	$260,424.79	$0.00	$0.00	$38,242.18	$38,242.18
R040	D	Bell Atlantic	01-Jun-00	$260,424.79	$0.00	$0.00	$3,354.52	$104,938.50	$368,717.81	$0.00	$0.00	$104,938.50	$104,938.50
R040	D	Bell Atlantic	01-Jul-00	$368,717.81	$0.00	$0.00	$3,853.26	$41,666.25	$414,237.32	$0.00	$0.00	$41,666.25	$41,666.25
R040	D	Bell Atlantic	01-Aug-00	$414,237.32	$0.00	($102,361.26)	$4,072.38	$15,042.04	$330,990.48	$0.00	$1.84	$15,040.20	$15,042.04
R040	D	Bell Atlantic	01-Sep-00	$330,990.48	($30,986.59)	$0.00	$4,447.40	$53,190.34	$357,641.63	$0.00	$1.25	$53,189.09	$53,190.34
R040	D	Bell Atlantic	01-Oct-00	$357,641.63	($0.04)	$0.00	$4,438.86	$55,878.11	$417,958.56	$0.00	$2.57	$55,875.54	$55,878.11
R040	D	Bell Atlantic	01-Nov-00	$417,958.56	$0.00	$0.00	$5,439.63	$48,706.52	$472,104.71	$0.00	$4.42	$48,702.10	$48,706.52
R040	D	Bell Atlantic	01-Dec-00	$472,104.71	($1.25)	$0.00	$0.00	$54,449.12	$526,552.58	$0.00	$0.00	$54,449.12	$54,449.12
R040	D	Bell Atlantic	01-Jan-01	$526,552.58	($7.50)	$0.00	$2,923.51	$55,746.92	$585,215.51	$0.00	$0.00	$55,746.92	$55,746.92
R040	D	Bell Atlantic	01-Feb-01	$585,215.51	($6,470.43)	$0.00	$3,663.46	$54,919.86	$637,328.40	$0.00	$0.00	$54,919.86	$54,919.86
R040	D	Bell Atlantic	01-Mar-01	$637,328.40	($4,409.55)	$0.00	$4,076.30	$51,198.30	$688,193.45	$0.00	$0.00	$51,198.30	$51,198.30
R040	D	Bell Atlantic	01-Apr-01	$688,193.45	$0.00	$0.00	$5,382.24	$60,070.49	$753,646.18	$0.00	$5,357.93	$54,712.56	$60,070.49
R040	D	Bell Atlantic	01-May-01	$753,646.18	($3,645.63)	$0.00	$5,945.27	$45,417.89	$801,363.71	$0.00	$166.81	$45,251.08	$45,417.89
R040	D	Bell Atlantic	01-Jun-01	$801,363.71	$0.00	$0.00	$7,172.32	$85,431.32	$893,967.35	$0.00	$0.00	$85,431.32	$85,431.32
R040	D	Bell Atlantic	01-Jul-01	$893,967.35	($4,502.71)	$0.00	$7,658.75	$5,257.19	$902,380.58	$0.00	$0.00	$5,257.19	$5,257.19
R040	D	Bell Atlantic	01-Aug-01	$902,380.58	$0.00	$0.00	$7,888.78	$39,474.37	$949,743.73	$0.00	$0.00	$39,474.37	$39,474.37
R040	D	Bell Atlantic	01-Sep-01	$949,743.73	$0.00	$0.00	$7,888.78	$268,105.73	$1,225,738.24	$0.00	$210,487.76	$57,617.97	$268,105.73
R040	D	Bell Atlantic	01-Oct-01	$1,225,738.24	($10,418.95)	$0.00	$7,634.32	$56,153.83	$1,279,107.44	$0.00	$1.11	$56,152.72	$56,153.83
				Total	($60,442.65)	($102,361.26)	$94,950.29	$1,346,961.06	$1,279,107.44				

Prepared By: John Southern
Tel:678-985-6371
Original: 10/17/01 2:18 PM
Printed: 11/9/2001 1:49 PM

Exhibit B

Email message from David A. Brock to Nathan Fuchs on May 30, 2001.

Original Message-----
From: nancy.h.banks@verizon.com [mailto:nancy.h.banks@verizon.com]
Sent: Tuesday, February 27, 2001 4:13 PM
To: Frye, Pauline
Subject: RE: KMCs TANDEM RATE APPLICATION

Pauline,

I will get a response to you by the end of the week. Unfortunately I
was
on vacation and this did not get done prior to my leaving.

Nancy Banks
617 743-6715

"Frye, Pauline" <Pauline.Frye@KMCTELECOM.com> on 02/27/2001 10:33:39 AM

To: "Frye, Pauline" <Pauline.Frye@KMCTELECOM.com>, "''Nancy. H. Banks (E-mail)'" <nancy.h.banks@bellatlantic.com>
cc:
Subject: RE: KMCs TANDEM RATE APPLICATION

Nancy,
Can you please respond to this correspondence?
Thanks
Pauline Frye
678-985-6217

> -----Original Message-----
> From: Frye, Pauline
> Sent: Monday, February 05, 2001 8:29 AM
> To: 'Nancy. H. Banks (E-mail)
> Subject: KMCs TANDEM RATE APPLICATION
> Importance: High
>
> Nancy,
>
> Please find enclosed KMC's position related to our ability to bill
tandem
> elements to Verizon for reciprocal compensation. As such, KMC expects
> payments for all outstanding monies due for Virginia related to the
tandem
> elements included in the reciprocal compensation rate billed to
Verizon.
>
> Please call me to discuss this issue and to arrange for payment of
the
> outstanding balances.
>
> << File: Tandem Position Paper 1-18-01.doc >>
>

Original Message-----
From: Johnson, Marva
Sent: Wednesday, March 07, 2001 2:14 PM
To: Frye, Pauline
Subject: RE: KMCs TANDEM RATE APPLICATION
Importance: High

Following up from our conversation last night, I believe that Verizon's interpretation is not on point. Many state PUCs, including Virginia, have adopted a bifurcated set of "elemental rates" for reciprocal compensation. These rates reflect three network elements: local switching, local transport and tandem switching. Verizon agrees that KMC functions as a tandem. As such, the Virginia PUC specifies that there is no need for a combined tandem-switched transport rate, [however] a tandem switching rate shall be applied only when a tandem switch is involved in the transport.

Given this, the appropriate rates for reciprocal compensation due to KMC from BA should be as follows:

Local Traffic Termination (per MOU)
Tandem $0.001590

Common Transport (per MOU) $0.000548

Total Per MOU $0.002138

Switched Transport (fixed) $0.000114 (per call)

Please see the references below:

Virginia PUC Rate Order Case # PUC97005

G. Transport Rate Structure and Rate Determination

(5) the Commission finds that there is no need for a combined tandem-switched transport rate. A tandem switching rate shall be applied only when a tandem switch is involved in the transport.

Telecom Act of 1996
Part II: Development of a Competitive Market, Sec. 251 (b)(5) - Reciprocal Compensation
The duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications.

Interconnection Agreement
5.7 Reciprocal Compensation Arrangements--- Section 251 (b)(5):
Reciprocal compensation arrangements address the transport and termination of traffic.

Marva Brown Johnson
KMC Telecom
Director, ILEC Compliance
O: 678-985-6220 C: 678-662-1138
mbjohn@kmctelecom.com

Original Message-----
From: Frye, Pauline
Sent: Thursday, March 15, 2001 11:19 AM
To: ''Nancy. H. Banks (E-mail)'
Subject: FW: KMCs TANDEM RATE APPLICATION
Importance: High

Nancy,

Per our conversation on March 6th, KMC would like to close the loop on the outstanding recip compensation rate issue.

Many state PUCs, including Virginia, have adopted a bifurcated set of "elemental rates" for reciprocal compensation. These rates reflect three network elements: local switching, transport and tandem switching. Verizon agrees that KMC functions as a tandem. As such, the Virginia PUC specifies that there is no need for a combined tandem-switched transport rate, [however] a tandem switching rate shall be applied only when a tandem switch is involved in the transport.

Given this, the appropriate rates for reciprocal compensation due to KMC from BA should be as follows:

Local Traffic Termination (per MOU)		
Tandem	$0.001590	
Common Transport (per MOU)	$0.000548	
(fixed)	$0.000114	(per call)
TOTAL RECIP RATE:	$.002252	

Please see the references below:

Virginia PUC Rate Order Case # PUC97005

G. Transport Rate Structure and Rate Determination

(5) the Commission finds that there is no need for a combined tandem-switched transport rate. A tandem switching rate shall be applied only when a tandem switch is involved in the transport.

Telecom Act of 1996

Part II: Development of a Competitive Market, Sec. 251 (b)(5) - Reciprocal Compensation
The duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications.

Interconnection Agreement
5.7 Reciprocal Compensation Arrangements--- Section 251 (b)(5): Reciprocal compensation arrangements address the transport and termination of traffic.

Please call me if there are any questions or issues. KMC expects payment from Verizon (BA)
for all outstanding monies withheld based on the reciprocal compensation rate. Please give me a call to arrange payment to KMC.

Thanks
Pauline Frye
678-985-6217

Original Message-----
From: nancy.h.banks@verizon.com [mailto:nancy.h.banks@verizon.com]
Sent: Tuesday, March 27, 2001 2:49 PM
To: Frye, Pauline
Cc: david.a.brock@verizon.com
Subject: RE: KMCs TANDEM RATE APPLICATION

Pauline,

In response to your request, our data shows that the new contract is not in
effect as the contract has not been filed with the Virginia Commission.
Absent a filing, we are continuing to pay you under the terms of your prior
agreement which was effective on March 12, 1997. This agreement, in Exhibit A Detailed Schedule of Itemized Charges, No. 13a provides that local call termination shall be paid at the tariff rate for termination which is currently .000927 at the EO and .00159 at the Tandem.

Please have your regulatory staff contact Huda Durant in Verizon's Arlington, Virginia office at 703 974-8077 to proceed with the filing of
the contract. If you have any further questions, please feel free to call
me at 617 743-6715.

Sincerely,
Nancy Banks

Original Message-----
From: nancy.h.banks@verizon.com [mailto:nancy.h.banks@verizon.com]
Sent: Tuesday, April 17, 2001 4:33 PM
To: Frye, Pauline
Subject: RE: Ind, VA and Fl

Pauline,

I have reviewed the reciprocal accounts in the former GTE and have the following status:

Indiana - Attached is the dispute letter which was sent to KMC indicating the GTE and now Verizon position which was sent May 2000.
VA - There is no record of billing from KMC to GTE in VA.
FL - We have paid all the monies in dispute.

Please let me know if you have any other questions.

Nancy Banks

Kmc-in.doc

(See attached file: Kmc-in.doc)

Nancy, any updated information for Indiana....the last letter was in May.
I actually show monies outstanding for FL...who should my team work with to
reconcile the variances. Is Verizon, paying for ISP traffic also?

Thanks

-----Original Message-----
From: nancy.h.banks@verizon.com [mailto:nancy.h.banks@verizon.com]
Sent: Tuesday, April 17, 2001 4:33 PM
To: Frye, Pauline
Subject: RE: Ind, VA and Fl

Original Message-----
From: david.a.brock@verizon.com [mailto:david.a.brock@verizon.com]
Sent: Wednesday, May 30, 2001 4:34 PM
To: Nathan.Fuchs@KMCTELECOM.COM
Cc: Pauline.Frye@KMCTELECOM.COM; lori.a.carbone@verizon.com
Subject: FW: Verizon Disputes with KMC

Hi Nathan,

As you can see, I did not receive your previous emails. Regarding Verizon disputes with KMC Telecom in VA, I hope this message will clarify any questions you may have.

The last 1999 FCC ruling states that internet traffic is not local traffic, and therefore, is not subject to reciprocal compensation. VA has not ruled on internet traffic specifically, so internet traffic is disputed by Verizon in that state. Other states, such as MA, has a 2:1 ratio in regards to internet traffic. Since KMC Telecom does not list on its invoices the amount of traffic that is internet, Verizon has applied a 2:1 ratio to that invoice. What this means is that Verizon pays KMC Telecom two times what Verizon bills KMC Telecom, and anything over the 2:1 ratio is considered internet traffic and Verizon will dispute that amount.

pic17365.pcx

Original Message-----
From: Fuchs, Nathan
Sent: Wednesday, May 30, 2001 4:46 PM
To: Johnson, Marva; Frye, Pauline
Subject: FW: Verizon Disputes with KMC

Marva and Pauline,

David's reply concerning the 2:1 ratio is below. He basically states that in many states, such as MA, there is a 2:1 ruling concerning internet traffic. Since, on our bills, we do not represent how much of it is internet traffic, Verizon applies that 2:1 ratio to the entire bill amount. That's all nice and fine about MA, but aren't we talking about VA? He mentions MA but not VA.


pic17365.pcx

Nathan

-Original Message-----
From: Fuchs, Nathan
Sent: Thursday, May 31, 2001 12:12 PM
To: Frye, Pauline
Subject: FW: Verizon Disputes with KMC

Pauline,

Below is what David Brock had to say.

Nathan

-----Original Message-----
From: david.a.brock@verizon.com [mailto:david.a.brock@verizon.com]
Sent: Thursday, May 31, 2001 12:05 PM
To: Nathan.Fuchs@KMCTELECOM.com
Subject: RE: Verizon Disputes with KMC

Hello Nathan,

To expand on my note, the state of VA has not ruled on reciprocal compensation for Internet traffic -
Internet traffic is not local per the FCC- Verizon is not required to pay

for Internet traffic, only local. Verizon pays
at a 2:1 ratio, assuming conservatively, that over 2:1 is Internet
traffic.
Verizon uses the 2:1 ratio as a model for
payment since your invoices do not specify what traffic is local from
what
traffic is Internet.

The issue of ISP disputes is a matter that our Legal department
handles.
If KMC Telecom disagrees, I suggest your
Legal department contact the Legal department at Verizon. In short,
Verizon strongly supports using a 2:1 ratio, which
Verizon believes is fair payment.

If I can be of further assistance, please don't hesitate to contact me.

Thanks,

David Brock
Billing Specialist

<u>Exhibit C</u>

Implementation of Local Competition Provisions in the Telecommunications Act of 1996,
***Reply Comments of Bell Atlantic*, CC Docket No. 96-98, at 20-21 (May 30, 1996)**

Exhibit C

Implementation of Local Competition Provisions in the Telecommunications Act of 1996, *Reply Comments of Bell Atlantic*, CC Docket No. 96-98, at 20-21 (May 30, 1996)

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MAY 30 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

DOCKET FILE COPY ORIGINAL

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	CC Docket No. 96-98
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	

REPLY COMMENTS OF BELL ATLANTIC

Edward D. Young, III
Of Counsel

Michael E. Glover
Leslie A. Vial
James G. Pachulski
Lawrence W. Katz
Lydia Pulley
1320 North Court House Road
8th Floor
Arlington, Virginia 22201
(703) 974-2944

Attorneys for Bell Atlantic

May 30, 1996

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List ABCDE

recovering their total costs would constitute an unauthorized taking of the LECs' property. Epstein Decl. at 2 (attached as Exh. 2). Nonetheless, the proponents of incremental cost pricing claim that there can be no taking when revenues are lost to competition. Perhaps so. But that is not the issue here. The issue here is whether government regulators can mandate prices that deny LECs the ability to recover costs they have actually incurred. They cannot. See, e.g., Duquesne Light Co. v. Barasch, 488 U.S. 299, 308 (1989); Jersey Central Power & Light Co. v. FERC, 810 F.2d 1168, 1178 (D.C. Cir. 1987) (en banc)

VII. Prices for Reciprocal Compensation Cannot Be Set At Zero

The most blatant example of a plea for a government handout comes from those parties who urge the Commission to adopt a reciprocal compensation price of zero, which they euphemistically refer to as "bill and keep." A more appropriate name, however, would be "bilk and keep," since it will bilk the LECs' customers out of their money in order to subsidize entry by the likes of AT&T, MCI, and TCG. As we demonstrated in our opening comments, a regulatorily mandated price of zero -- by any name -- would violate the Act, the Constitution, and sound economic principles. See Bell Atlantic Br. at 40-42.

Indeed, the proponents of bill and keep appear to recognize the flaws in their proposal, and shift their focus here to arguing that the FCC should mandate bill and keep as an "interim" pricing mechanism, and as a default price when parties do not agree to a different rate. AT&T Br. at 69; MCI Br. at 52-53; TCG Br. at 83-84.[19] This will create a "threat point," so the

[19] Some parties also have suggested that the cost to terminate calls during off-peak periods is very low, and that setting prices at zero during those periods is close enough. In reality, while setting different peak and off-peak prices may make sense in some contexts, here it would merely encourage providers to find ways to modify their traffic flows -- and thereby effectively change the peak -- in order to take advantage of the zero rates while forcing LECs to incur peak load costs. Under these circumstances, peak and off-peak users must share the costs

argument goes, that will encourage LECs to negotiate reasonable rates for reciprocal compensation. But whether they are termed interim or permanent, mandatory bill and keep arrangements suffer from the same flaws, and simply cannot be squared with the Act's mandate that LECs be permitted to recover their costs absent a voluntary waiver of that right. Bell Atlantic Br. at 42. Nor will adopting bill and keep as a mandatory solution encourage parties to negotiate a reasonable price. It will do the opposite So long as competitors know that they can get a zero rate if they do not agree to something else, the result will be bill and keep in every case.

Moreover, the notion that bill and keep is necessary to prevent LECs from demanding too high a rate reflects a fundamental misunderstanding of the market. If these rates are set too high, the result will be that new entrants, who are in a much better position to selectively market their services, will sign up customers whose calls are predominantly inbound, such as credit card authorization centers and internet access providers. The LEC would find itself writing large monthly checks to the new entrant. By the same token, setting rates too low will merely encourage new entrants to sign up customers whose calls are predominantly outbound, such as telephone solicitors. Ironically, under these circumstances, the LECs' current customers not only would subsidize entry by competitors, but would subsidize low rates for businesses they may well not want to hear from.

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of capacity, and it would be irrational to set a price of zero during any period. See Kahn, The Economics of Regulation, Vol. 1 at 91-93.

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION 01123013 8

AT RICHMOND, DECEMBER 20, 2001

RECEIVED

JAN 10 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

PETITION OF

KMC TELECOM OF VIRGINIA, INC.,
KMC TELECOM IV OF VIRGINIA, INC., and
KMC TELECOM V OF VIRGINIA, INC.

CASE NO. PUC010220

DEC 20 P 3 26

For Declaratory Judgment
Interpreting and Enforcing
Interconnection Agreements
With Verizon Virginia Inc.

FINAL ORDER

On November 9, 2001, KMC Telecom of Virginia, Inc., KMC Telecom IV of Virginia, Inc., and KMC Telecom V of Virginia, Inc. (collectively "KMC"), filed with the State Corporation Commission ("Commission") a petition for declaratory judgment against Verizon Virginia Inc. ("Verizon Virginia") seeking enforcement of three interconnection agreements between KMC and Verizon Virginia (the "Agreements")[1]. Specifically, KMC seeks interpretation and enforcement of the Agreements and their terms relating to the payment of reciprocal compensation for their transport and termination of Verizon Virginia's traffic to Internet Service Providers ("ISPs"). On November 30, 2001, Verizon Virginia filed its response to KMC's petition.

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[1] Only one of the three interconnection agreements referred to by Petitioner, by and between Verizon Virginia and KMC, were approved by this Commission: First Agreement: Joint Application of Bell Atlantic-Virginia, Inc. and KMC Telecom of Virginia, Inc., For approval of interconnection agreement under Section 252(e) of the Telecommunications Act of 1996, Case No. PUC970037, 1997 S.C.C. Ann. Rep. 280. The other two interconnection agreements were not formerly filed with this Commission.

KMC contends that Verizon Virginia will not make payments to KMC for reciprocal compensation for the transport and termination of telephone exchange service traffic handed off by Verizon Virginia to KMC for termination by KMC to its exchange service end users that are ISPs or Enhanced Service Providers (collectively "ISPs"). KMC relies upon the Verizon Virginia Agreements' requirement that the parties will pay such compensation for the transport and termination of "Local Traffic". Furthermore, KMC requests that the Commission enter an order affirming an earlier Commission decision that calls to ISPs are local for purposes of reciprocal compensation.[2]

Finally, KMC contends that a Commission order will not be impacted by the Federal Communications Commission's ("FCC") recent reevaluation of the treatment to be accorded to traffic delivered to ISPs.[3] The FCC has stated that its determination does not "alter existing contractual obligations," and "does not preempt any state commission decision regarding compensation for ISP-bound traffic for the period prior to the effective date of the interim regime we adopt here."[4]

---

[2] Petition of Cox Virginia Telecom, Inc., For enforcement of interconnection agreement with Bell Atlantic-Virginia, Inc., and arbitration award for reciprocal compensation for the termination of local calls to Internet service providers ("Petition of Cox Virginia Telecom, Inc."), Case No. PUC970069, 1997 S.C.C. Ann. Rep. 298.

[3] See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 and Inter-Carrier Compensation for ISP-Bound Traffic, CC Docket Nos. 96-98 and 99-68, Order on Remand and Report and Order, FCC 01-131, 16 F.C.C.R. 9151 (2001) (the "ISP Remand Order").

[4] Id. at Para. 82.

In Petition of Cox Virginia Telecom, Inc.,[5] Cox Virginia Telecom, Inc. ("Cox"), in its petition for enforcement of its interconnection agreement with Bell Atlantic-Virginia, Inc. ("BA-VA"), presented the issue of payment of reciprocal compensation for its transport and termination of BA-VA traffic to ISPs served by Cox. We found in that case that calls to ISPs as described in the Cox petition constituted local traffic and that both Cox and BA-VA were entitled to reciprocal compensation for the termination of this type of call. We found that calls to an ISP dialed on a seven-digit basis were local in nature.

However, subsequent decisions have been issued by the FCC concerning reciprocal compensation for ISP-bound traffic[6] and the treatment of Internet-bound traffic as interstate in nature.[7] The Commission remains steadfast in its concern regarding the possibility of conflicting results by this Commission and the FCC.[8] The FCC has still not reached determinations on the

---

[5] Petition of Cox Virginia Telecom, Inc., Case No. PUC970069, 1997 S.C.C. Ann. Rep. 298.

[6] In re Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Inter-Carrier Compensation for ISP-Bound Traffic, Declaratory Ruling and Notice of Proposed Rulemaking, CC Docket 96-98 and 99-68, FCC 99-38, 14 F.C.C.R. 3689 (1999) (hereinafter, "Reciprocal Compensation Order").

[7] In re Implementation of the Local Competition Provisions in the Telecommunications Act of 1996: Intercarrier Compensation for ISP-Bound Traffic, Order on Remand and Report & Order, F.C.C. No. 01-131, 16 F.C.C.R. 9151 (2001) ("Order on Remand").

[8] Petition of Starpower Communications, LLC, For declaratory judgment and enforcement of interconnection agreement with Bell Atlantic-Virginia, Inc., Case No. PUC990156, 2000 S.C.C. Ann. Rep. 272; Petition of Starpower Communications, LLC, For declaratory judgment interpreting interconnection agreement with GTE South, Inc., Case No. PUC990023; and Petition of Cox

various outstanding issues concerning its treatment of ISP-bound traffic. Both parties in this case are seeking an expedited decision. Rather than prolong the resolution of the issues involved in this case, the most practical action is for this Commission to decline jurisdiction and allow the parties to present their case to the FCC.[9]

The Commission is a constitutional agency that derives all of its powers and authority from the Constitution of Virginia and properly enacted legislative measures. A statement by the FCC does not, per se, grant jurisdiction to this Commission. Thus, even if we could respond to the petition in a manner not inconsistent with rules the FCC may later adopt, our ruling might be challenged on jurisdictional grounds by a party dissatisfied with the outcome.

NOW THE COMMISSION, upon full consideration of the pleadings, the Act, the Reciprocal Compensation Order, the Order on Remand, and the applicable statutes and rules, finds that we should take no action on the petition. We will dismiss the

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Virginia Telecom, Inc. v. GTE South Incorporated, For enforcement of interconnection agreement for reciprocal compensation for the termination of local calls to Internet Service Providers, Case No. PUC990046, 2000 S.C.C. Ann. Rep. 263.

[9] Furthermore, if interpretation of these interconnection agreements require action under Section 252 (e) of the Act, the Commission would decline to waive sovereign immunity under the Eleventh Amendment of the Constitution of the United States. See Application of AT&T Communications of Virginia, Inc., TCG Virginia, Inc., ACC National Telecom Corp., MediaOne of Virginia, and MediaOne Telecommunications of Virginia, Inc., For arbitration of interconnection rates, terms, and conditions, and related arrangements with Verizon Virginia Inc. pursuant to Section 252(b) of the Telecommunications Act of 1996, Case No. PUC000282, 2000 S.C.C. Ann. Rep. 368.

petition without prejudice and encourage the parties to request interpretation of this Agreement from the FCC.

Accordingly, IT IS THEREFORE ORDERED that the petition in Case No. PUC010194 be DISMISSED and, there being nothing further to come before the Commission, the papers transferred to the files for ended causes.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Eric M. Page, Esquire and T. Borden Ellis, Esquire, LeClair Ryan, P.C., 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060; Genevieve Morelli, Esquire, Edward A. Yorkgitis, Jr., Esquire, Eric D. Jenkins, Esquire, and Aspasia A. Paroutsas, Esquire, Kelley Drye & Warren LLP, 1200 19th Street, N.W., Suite 500, Washington, D.C. 20036; Lydia R. Pulley, Vice President and General Counsel, Verizon Virginia Inc., 600 East Main Street, 11th Floor, Richmond, Virginia 23219; John F. Dudley, Senior Assistant Attorney General, Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, Second Floor, Richmond, Virginia 23219; and the Commission's Divisions of Communications, Public Utility Accounting, and Economics and Finance.

A True Copy
Teste:
Joel H. Peck
Clerk of the
State Corporation Commission